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In re Application of	:	DECISION ON
YAMADA et al	:	
PCT No.: PCT/JP03/02481	:	
Application No.: 10/506,511	:	PAPERS FILED
Int. Filing Date: 04 March 2003	:	
Priority Date: 05 March 2002	:	
Attorney's Docket No.: 2004-1308A	:	UNDER 37 CFR 1.42
For: APPARATUS AND METHOD ...	:	
TYPE MINITURN BAR	:	

This is a decision on the declaration filed 24 January 2005, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 03 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an unexecuted oath or declaration was not provided at such time.

On 06 January 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two (2) months from date of mailing of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, a surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date will be required under 37 CFR 1.492(e). The notice indicated that all of the items set forth must be submitted within two (2) months from the date of this Notice or by 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment.

In response to the Notification mailed on 06 January 2005, applicants filed a declaration signed by Chizuka YAMADA as legal representative of the inventor now deceased Kenji YAMADA.

DISCUSSION

The application may not enter into national stage processing at this time. The declaration filed on 24 January 2005 is defective since it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising of two sets of declarations, which one is incomplete since each set must be complete by having the correct number of pages and listing all the inventors and the legal representative. Copies of the same page, in this instance page 3 of 4, is not part of a proper declaration since it is considered a composite declaration and each must be a complete declaration with the proper statement and the names of each inventor even though each set of declarations may not have all the signatures of the inventors. Therefore, a proper declaration must consist of individual complete sets of declaration that taken as a whole would have all the required signatures as required under 37 CFR 1.497(a)(3).

At the present time the composite Declaration is incomplete.

In addition, the declaration should state the condition of the first inventor, Kenji YAMADA. That is, if he is deceased then the declaration should indicate so within parenthesis next to his name.

Consequently, applicants have not satisfied the requirements under 37 CFR 1.42, since the declaration does not comply with 37 CFR 1.497(a)(3).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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